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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,090

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Daniel T. Johnson

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EXAMINER

SHAAWAT, MUSSA A

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/771,090	Applicant(s) JOHNSON ET AL.	
	Examiner MUSSA A. SHAAWAT	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1 and 6-22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1 and 6-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/21/2007</u> . | 6) <input type="checkbox"/> Other: ____. |

Response to Amendment

1. This action is in response to the amendment filed on 11/21/2007. Claims 2-5 have been previously cancelled. Claim 1 has been amended. Claims 7-22 have been newly added. Claims 1, 6 and 7-22 are pending examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 17-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 17-19 recite "collecting information from unaltered and previously undefined equipment to complete the survey of the site", the examiner finds no support in applicant's specification for previously mentioned limitation in said claims 17-19.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 6-9, 11, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by McMahon (US 5,956,658) referred to hereinafter as McMahon.

Regarding claim 1, McMahon discloses a system for collecting information relating to equipment located at a site, the system comprising: a first database including legacy data relating to at least a portion of the equipment; a server including software for importing the legacy data into a specified data structure and for exporting the specified data structure and a survey process comprising a plurality of steps required to Complete the survey of the site; and, a mobile survey device for receiving the specified data structure, the survey process, and the legacy data prior to performing a survey and for displaying the survey process to guide a user in collecting the information to complete the survey of the site; wherein the specified data structure comprises a field for each type of expected information and at least one acceptable entry for each field (see at least col.3 line 7-col.4 line 65).

Regarding claim 6, the survey device of McMahon is further configured to communicate the information collected to the server.

Regarding claim 7, McMahon teaches a system of claim 1 wherein the at least one acceptable entry for each field comprises a plurality of acceptable entries for each field from which one of the plurality of acceptable entries is selected for information collected by the mobile survey device (see at least col.8 lines 53-63).

Regarding claim 8, McMahon teaches a system of claim 1 wherein collecting the information further comprises placing the information in an appropriate field and further

identifying the information as one of the at least one acceptable entries (see at least col.8 lines 53-63).

Regarding claim 9, McMahon teaches a system of claim 1 wherein the expected information comprises information expected to be collected related to equipment (see col.4 lines 10-14).

Regarding claim 11, McMahon teaches a system of claim 1 wherein the expected information comprises information expected to be collected related to a site (see at least col.5 lines 40-43).

As per claims 17 and 20, the limitations of claims 17 and 20 are similar to the limitations of claims 1; therefore they are rejected based on the same rationale.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10, 12-16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMahon (US 5,956,658) referred to hereinafter as McMahon.

As per claims 10, 12 and 16, Although McMahon teach collecting information related with an equipment and a site, McMahon does not expressly teach that related information to the equipment and the site is collecting from a group consisting of the list mentioned in claims 10, 12 and 16. However it would have been obvious to one of ordinary skill in the art at the time the invention was made to pull or gather information

related to an equipment and a site from a group consisting of the list stated in claims 10 and 12 in order to assemble an accurate inventory so that one can better administer and maintain the machines.

As per claim 13, Although McMahon and Johnson teach collecting or gathering data, both McMahon/Johnson do not expressly teach the data being photographs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate photographic file as part of the data to be collect into the disclosure of McMahon in order to provide the user with the option of viewing the picture of the site or equipment surveyed.

As per claims 14-15 and 18-19, McMahon teaches plurality of steps required to complete a survey of the site comprising: collecting store information; collecting a system identification; collecting inventory information and collecting system information, McMahon however does not expressly that the data is association with HVAC or refrigeration equipment

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The survey of data steps would be performed the same regardless. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the steps of surveying data associated with

HVAC or refrigeration equipment because association with HVAC or refrigeration equipment does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. See MPEP 2106 VI for further details.

As per claims 20-22, McMahon teaches all the limitations, however McMahon does not expressly teach quality control of the information being communicated from the mobile device to the server , specifically identifying a failure and correcting it. The examiner takes Official Notice that identifying a failure and providing a correction when communicating information from a mobile device to a server is old and well known in the art at the time the invention was made. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McMahon to include a quality control of communicating information from a mobile device to a server in order to ensure the successful delivery of all the data imported into the server.

Response to Arguments

8. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form 892 form cited references.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSSA A. SHAAWAT whose telephone number is (571)272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mussa Shaawat
Patent Examiner
February 8, 2008

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627